

our Lord 1961, were, ascertained by judgment of the circuit court of the first judicial circuit, State of Hawaii, in proceedings entitled *Herman T. F. Lum et al., v. Gavien A. Bush et al.* (Civil No. 7029), entered on the 30th day of December A.D. 1960, and that the list of persons voted for and the number of votes cast for each, pursuant to said judgment, respectively, is as follows:

Republican Party: Gavien A. Bush, 92,295; J. Howard Worrall, 92,295; O. P. Soares, 92,295.

Democratic Party: William H. Heen, 92,410; Delbert E. Metzger, 92,410; Jennie Wilson, 92,410.

And I further certify that: William H. Heen, Delbert E. Metzger, and Jennie Wilson were appointed electors of President and Vice President of the United States of America, for the State of Hawaii, at said election.

Given under my hand and the seal of the State, this 4th day of January, in the year of our Lord 1961.

WILLIAM F. QUINN,
Governor of Hawaii.

§ 1.2 Where certificates of electoral votes had been received from different slates of electors from a state, and each slate purported to be the duly appointed electors from that state, the Vice President presented the certificates, with all attached papers, in the order in which they had been received.

On Jan. 6, 1961,⁽¹⁷⁾ during proceedings in the joint session of the two Houses incident to the open-

17. 107 CONG. REC. 288-91, 87th Cong. 1st Sess.

ing of the certificates and ascertaining and counting of the votes of the electors of the several states for President and Vice President, the presiding officer⁽¹⁸⁾ handed to the tellers, in the order in which they had been received, certificates of electoral votes, with all attached papers thereto, from different slates of electors from the State of Hawaii. Without objection, the Chair instructed the tellers to count the votes of those electors named in the certificate of the Governor of Hawaii dated Jan. 4, 1961 (discussed more fully in § 3.5, *infra*).

§ 2. Joint Sessions to Count Electoral Votes

Concurrent Resolution Providing for Joint Session

§ 2.1 A concurrent resolution providing for a joint session to count the electoral votes for President and Vice President may be originated by the Senate.

On Jan. 3, 1973,⁽¹⁹⁾ Mr. Thomas P. O'Neill, Jr., of Massachusetts,

18. Richard M. Nixon (Calif.).

19. 119 CONG. REC. 30, 93d Cong. 1st Sess. For additional recent examples see 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969; 111 CONG.

called up and asked for the immediate consideration of a Senate concurrent resolution:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Saturday, the 6th day of January 1973, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which an-

REC. 26, 89th Cong. 1st Sess., Jan. 4, 1965; and 107 CONG. REC. 26, 87th Cong. 1st Sess., Jan. 3, 1961.

nouncement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The Senate concurrent resolution was agreed to.

Recesses

§ 2.2 The Speaker may be authorized to declare a recess in connection with the convening of the two Houses in joint session to count the electoral vote for President and Vice President.

On Jan. 3, 1973,⁽²⁰⁾ the House considered and agreed to a Senate concurrent resolution⁽¹⁾ providing for the convening on Jan. 6, 1973, of a joint session of the two Houses to count the electoral vote. Mr. Thomas P. O'Neill, Jr., of Massachusetts, then made a unanimous-consent request, as follows:

MR. O'NEILL: Mr. Speaker, I ask unanimous consent that on Saturday, January 6, 1973, it may be in order for the Speaker to declare a recess at any time subject to the call of the Chair.

20. 119 CONG. REC. 30, 93d Cong. 1st Sess. For further illustrations see 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969; 111 CONG. REC. 26, 89th Cong. 1st Sess., Jan. 4, 1965; and 107 CONG. REC. 26, 87th Cong. 1st Sess., Jan. 3, 1961.

1. S. Con. Res. 1.

THE SPEAKER:⁽²⁾ Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Parliamentarian's Note: The Speaker declares a recess of the House to enable the Members to reconvene in joint session with the Senate in the House Chamber.

§ 2.3 On the day fixed by law and concurrent resolution for the convening of the joint session to count the electoral votes for President and Vice President, the Speaker declined to recognize for one-minute speeches or extensions of remarks before recessing the House subject to the call of the Chair.

On Jan. 6, 1973,⁽³⁾ the Speaker⁽⁴⁾ made an announcement to the House:

THE SPEAKER: The Chair desires to make a statement.

The Chair desires deferment of unanimous-consent requests and also 1-minute speeches until after the formal ceremony of the day, which is the counting of the electoral votes for President and Vice President. Therefore, pursuant to the order adopted on

2. Carl Albert (Okla.).
3. 119 CONG. REC. 378, 93d Cong. 1st Sess. For an additional example see 115 CONG. REC. 145, 91st Cong. 1st Sess., Jan. 6, 1969.
4. Carl Albert (Okla.).

Wednesday, January 3, 1973,⁽⁵⁾ the Chair declares the House in recess until approximately 12:45 o'clock p.m.

Accordingly (at 12 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

Convening of the Joint Session

§ 2.4 The two Houses convene in joint session to open the certificates and ascertain and count the votes cast by the electors of the several states for President and Vice President.

On Jan. 6, 1973,⁽⁶⁾ the President of the Senate⁽⁷⁾ called to order a joint session of the Senate and the House of Representatives, convened pursuant to the provisions of a Senate concurrent resolution⁽⁸⁾ to carry out Congress'

5. 119 CONG. REC. 30, 93d Cong. 1st Sess.

6. 119 CONG. REC. 378, 93d Cong. 1st Sess. For other examples of joint sessions convened to count the electoral vote cast in recent elections see 115 CONG. REC. 145, 91st Cong. 1st Sess., Jan. 6, 1969; 111 CONG. REC. 136, 89th Cong. 1st Sess., Jan. 6, 1965; and 107 CONG. REC. 288, 87th Cong. 1st Sess., Jan. 6, 1961.

7. Spiro T. Agnew (Md.).

8. S. Con. Res. 1, agreed to by the House at 119 CONG. REC. 30, 93d Cong. 1st Sess., Jan. 3, 1973. For additional examples of House agreement to concurrent resolutions providing for joint sessions to count

constitutional and statutory responsibilities relative to opening the certificates and ascertaining and counting the votes of the electors of the several states for President and Vice President.

Presiding Officer

§ 2.5 In the absence of the President of the Senate, the President pro tempore of the Senate presides over the joint session to count the electoral votes for President and Vice President.

On Jan. 6, 1969,⁽⁹⁾ in the absence of the President of the Senate,⁽¹⁰⁾ the President pro tempore

electoral votes, see 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969; 111 CONG. REC. 26, 89th Cong. 1st Sess., Jan. 4, 1965; and 107 CONG. REC. 26, 87th Cong. 1st Sess., Jan. 3, 1961.

9. 115 CONG. REC. 145, 91st Cong. 1st Sess. See also 111 CONG. REC. 136, 89th Cong. 1st Sess., Jan. 6, 1965.
10. On Jan. 6, 1969, the President of the Senate, Hubert H. Humphrey, (Minn.), who was the incumbent Vice President and the losing candidate for President in the 1968 election, declined to preside over the joint session to count the electoral votes. On Jan. 6, 1965, the office of the President of the Senate was vacant, the former Vice President, Lyndon B. Johnson (Tex.), having ascended to the Presidency upon the death of his predecessor, Nov. 22, 1963.

of the Senate⁽¹¹⁾ presided over the joint session to count the electoral votes for President and Vice President of the United States.

Procedure

§ 2.6 Where the two Houses meet to count the electoral vote, a joint session is convened pursuant to a concurrent resolution of the two Houses which incorporates by reference the applicable provisions of the United States Code; and the procedures set forth in those provisions are in effect constituted as a joint rule of the two Houses for the occasion and govern the procedures in the joint session and in both Houses in the event they divide to consider an objection.

On Jan. 6, 1969,⁽¹²⁾ the two Houses convened in joint session to count the electoral vote. The joint session was convened pursuant to a Senate concurrent resolution⁽¹³⁾ which incorporated the vote-counting procedures set forth in 3 USC §§ 15–18. A written objection was made to the count of

11. Richard B. Russell (Ga.).

12. 115 CONG. REC. 145–47, 169–72, 91st Cong. 1st Sess.

13. 13. S. Con. Res. 1.

North Carolina's electoral vote. Thereupon, pursuant to the provisions of 3 USC §§15–18, the joint session divided, the Senate repairing to the Senate Chamber, and the objection was submitted to and considered in each House convened in separate sessions.

§ 3. Counting Votes; Objections to Count

House Tellers

§ 3.1 Tellers on the part of the House to count the electoral vote are appointed by the Speaker.

On Jan. 3, 1973,⁽¹⁴⁾ the House had considered and agreed to a Senate concurrent resolution⁽¹⁵⁾ providing for the convening of a joint session of the two Houses to count the electoral votes. The Speaker,⁽¹⁶⁾ pursuant to the provisions of the concurrent resolution, appointed Mr. Wayne L. Hays, of Ohio, and Mr. Samuel L. Devine, of Ohio, as tellers on the part of

14. 119 CONG. REC. 30, 93d Cong. 1st Sess. For further illustrations see 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969; 111 CONG. REC. 26, 89th Cong. 1st Sess., Jan. 4, 1965; and 107 CONG. REC. 27, 87th Cong. 1st Sess., Jan. 3, 1961.

15. S. Con. Res. 1.

16. Carl Albert (Okla.).

the House to count the electoral votes.

§ 3.2 The Speaker has appointed the Chairman and ranking minority member of the Committee on House Administration as tellers on the part of the House to count the electoral votes.

On Jan. 3, 1969,⁽¹⁷⁾ the Speaker⁽¹⁸⁾ appointed as tellers on the part of the House to count the electoral votes Mr. Samuel N. Friedel, of Maryland, and Mr. Glenard P. Lipscomb, of California, who were, respectively, the Chairman and ranking minority member of the Committee on House Administration.

§ 3.3 Where a Member designated as a teller for counting the electoral ballots was unavoidably detained, the Speaker designated another Member to take his place.

On Jan. 6, 1949,⁽¹⁹⁾ prior to the announcement of the arrival of the Senate for the meeting of the joint session of the two Houses to count the electoral vote, the Speaker⁽²⁰⁾ made an announcement to the House:

17. 115 CONG. REC. 36, 91st Cong. 1st Sess.

18. John W. McCormack (Mass.).

19. 95 CONG. REC. 89, 81st Cong. 1st Sess.

20. Sam Rayburn (Tex.).